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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/564,592 | 01/13/2006 | Klaus Biester | 1600-13300 DAR | 1800 |
| 45933 | 7590 | 12/03/2008 | EXAMINER | |
| CONLEY ROSE, P.C. 600 TRAVIS SUITE 7100 HOUSTON, TX 77002 | | | FRISTOE JR, JOHN K | |
| ART UNIT | PAPER NUMBER | | 3753 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|---------------------------------------|---------------------------------------|
| Office Action Summary | Application No. 10/564,592 | Applicant(s) BIESTER, KLAUS |
| | Examiner JOHN K. FRISTOE JR | Art Unit 3753 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 September 2008.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 4 and 6-21 is/are allowed.
- 6) Claim(s) 1-3,5 and 22-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 1/13/2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/06)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 9/4/2008 have been fully considered but they are not persuasive. Applicant argues that Denda et al does not disclose a dosing gap that is adjustable, the examiner disagrees. As the cone (4) moves up and down from the open and closed position, the conical portion of the gap adjusts as the circumferential gap between the cone (4) and the outer sleeve (1, 12) changes. Applicant further argues that Denda et al. a dosing cone moving relative to a counter element, the examiner disagrees. The dosing cone (4) of Denda et al. moves relative to the counter element (12). Applicant also argues that Denda et al. does not disclose an annular area between the dosing cone and the counter element, the examiner disagrees. Denda et al. clearly disclose an annular gap between the dosing cone (4) and the counter element (12) in the figure. Since any changes to the following prior art rejections were necessitated by Applicant's amendment, the instant Office action has been made final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5, 25, and 26 as far as they are definite, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,967,164 (Denda et al.). Denda et al. disclose a dosage feed device comprising a dosing element (1, 4, 12), an adjustment device (10), a dosing gap (14a), a valve device (5), an opening area of the dosing gap (14) is variable (area between

elements 4 and 12 is variable), a dosing cone (4), a counter element (12), wherein the dosing cone (4) moves relative to the counter element (12), the dosing gap (14) is ring shaped Around element 4), a certain opening area (14a), and a number of insertion bevels (surface of element 9).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22 and 23 as far as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,967,164 (Denda et al.) in view of U.S. Pat. No. 5,497,672 (Appleford et al.). Denda et al. disclose a dosage feed device comprising a dosing element (1, 4, 12), an adjustment device (10), a dosing gap (14a), a valve device (5), an opening area of the dosing gap (14) is variable (area between elements 4 and 12 is variable), a dosing cone (4), a counter element (12), wherein the dosing cone (4) moves relative to the counter element (12), the dosing gap (14) is ring shaped Around element 4), a certain opening area (14a), and a number of insertion bevels (surface of element 9) but lacks the adjustment device comprising a gear mechanism. Appleford et al. teach an actuator comprising a spindle drive (4), a reduction gear (10), a helically toothed spur gear (9), and a drive motor (8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the dosage feed device Denda et al. by having a geared actuator as taught by Appleford et al. in order to change the speed of the motor and further control the speed of the valve during movement.

6. Claim 24 as far as it is definite, is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,967,164 (Denda et al.) in view of U.S. Pat. No. 5,497,672 (Appleford et al.) as applied to claim 23 above, and further in view of U.S. Pat. No. 4,159,658 (Parkinson). Denda et al. modified above, disclose a dosage feed device comprising a dosing element (1, 4, 12), an adjustment device (10), a dosing gap (14a), a valve device (5), an opening area of the dosing gap (14) is variable (area between elements 4 and 12 is variable), a dosing cone (4), a counter element (12), wherein the dosing cone (4) moves relative to the counter element (12), the dosing gap (14) is ring shaped Around element 4), a certain opening area (14a), and a number of insertion bevels (surface of element 9) but lacks a code carrier of a position sensor assigned to the threaded spindle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the dosage feed device of Denda et al. by adding a position sensor to the actuator as taught by Parkinson in order to determine the position of the actuator during movement.

Allowable Subject Matter

7. Claims 4 and 6-21 allowed.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926. The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John K. Fristoe Jr./
John K. Fristoe Jr.
Primary Examiner
Art Unit 3753

JKF